

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Regular meeting to be held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, June 8, 2020, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Bryan Flowers, Amanda Mosiman, Richard Reid, Bob Johnson, Bill Byers, Jeff Valiant, and Jeff Willis.

MEMBERS ABSENT: None

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director, Kim Kaiser, staff and Mallory Hermann, staff.

MINUTES:

Amanda Mosiman made a motion to approve the March 9, 2020 minutes. The motion was seconded by Bob Johnson and carried unanimously.

Amanda Mosiman made a motion to approve the April 13, 2020 and May 9, 2020 for no meeting due to the Emergency Declaration from the Governor of Indiana. The motion was seconded by Rick Reid and carried unanimously.

The President explained that there were several items on the agenda due to no meeting for the last couple of months. He stated one of the items was a hearing on the Solar Farms Ordinance and due to travel restrictions to one of the parties involved, part of that would be a phone conference. He said the call was set up for 7:00 p.m. He stated he would do his best to get through everything on the agenda before then but if we get to that point depending on how much there is left we may pause what we are on and jump on the phone call. He said he apologizes ahead of time if that is any inconvenience but he would do his best to keep the meeting moving and try to get through everything else that we have.

PRIMARY PLAT:

PP-19-08: Amended Enclave: PETITIONER/OWNER: Ken Favor. 1.0343 acres located on the E side of Coal Mine Road approximately 0' N of the intersection formed by Coal Mine Road and Melissa Lane. Ohio Twp. *Complete legal on file.* (Advertised in the Standard January 30, 2020) Continued from February 10, 2020 and March 9, 2020.

Scott Buedel, with Cash Wagner and Associates, was present.

The President called for a Staff Report.

Mrs. Barnhill stated we are missing three green cards from Kerry Lee & Terry Don Cline, Gary & Virginia Fields, and Casey & Samantha Heffington. She said we do have the white pay receipts showing they were mailed correctly. She stated the zoning is "PUD" consisting of "R-1" with no flood plain. She said there are 18 lots and one outlot. She stated the streets are private, however they are still required to submit street construction plans and they would be required to post surety to guarantee their construction before a secondary plat could be recorded. She said they have requested no improvements to Coal Mine Road and those were approved today. She stated the Drainage Board did approve their drainage plans. She said Chandler has capacity for water and sewer. She stated the Enclave Primary Plat was approved in August 2018 with a condition for firewalls to be installed if any of the buildings were to be less than ten feet apart, the "PUD" zoning being approved and the sidewalk waiver on the east side of Lot 5. She stated at that time there were 16 lots and one outlot and now the developer would like to add two more buildable lots, which requires an Amended Primary to be filed and to come back before the APC, Commissioners, and Drainage Board for approval. She said they have submitted a request to waive the sidewalk requirement and the letter states, "This development is designed for 55 and older and traffic will be minimal and no school buses will enter the development, therefore we are requesting no sidewalks be required." She said the Amended Primary consists of 18 residential lots and one outlot for a retention basin. She stated she has made a table showing the Ordinance requirements, minimum requirement, and the relaxed requirement they are asking for on the plat. She said front yards are usually 25' and on this plat they are 6-13' on all lots. She stated the side yard requirements are usually six feet and on this one they are 0' – 5' with a 5' ME, which is a maintenance easement, on the adjacent lots. She said sidewalks shall be installed on all residential lots less than one acre and in this case, they are asking for no sidewalks. She stated on corner lots side yards are normally 15' and they are asking for a relaxed 4.31'. She stated rear yard requirements are 25' and they are asking for five feet on this one. She said lot size in this zoning is normally 6,000 square feet and the lots on here are between 2,338-4,583 square feet. She stated the width at the building line is usually 60' in this zoning and they are asking for 33.4'. She stated if the plat is approved it will be conditioned upon the sidewalk waiver. She said we do have a Power of Attorney for Scott Buedel to represent the owner tonight. She stated that is all she has, everything is in order, and they did approve the street plans.

Scott Buedel, with Cash Waggner and Associates, stated he was here on behalf of Ken Faver. He said it was just last week that they were brought into this development to take over for Bill due to his condition. He said they are hoping to finish this up for Ken and do whatever is necessary to keep this process going for him.

The President asked Scott if he had any other information or changes, besides what he just said to add to this Staff Report. He said any changes or anything.

Scott Buedel replied at this stage anything that is required to be done they are willing to take care of.

The President asked for questions from the Board.

The President asked if they wanted to waive all the sidewalks all together.

Amanda Mosiman stated she wasn't a fan just because there aren't school age children that doesn't mean that sidewalks don't need to be installed. She said that is a community, a walkable community at that, and they aren't going to have yards to exercise in there is not... She stated to her it decreases the functionality of it.

Scott Buedel stated he knows of other developments that are similar to this, whenever their front yard setbacks are reduced, and the likelihood of somebody parking in the driveway and hanging out over the sidewalk and blocking the sidewalk exists. He said from the standpoint of reducing the front yard setback it kind of goes hand in hand with, at times, with not having a sidewalk there where it would potentially be blocked any way.

President Valiant asked if there were any questions from the Board at this time.

Jeff Willis asked if this was going to be a 55 and older that stays in the covenants forever or is that just what they tell us and then if the houses don't sell they can put school kids in there.

Attorney Doll stated we don't have the covenants. He said we don't have anything to do with that.

Amanda Mosiman stated even if it is designed for 55 and over if somebody wants to buy it they can correct.

Attorney Doll stated age discrimination.

Jeff Willis asked if they were going to allow parking on the streets or is everybody going to have to park in their driveways.

Scott Buedel replied he would say the driveway because the streets aren't going to allow that much room. He stated he didn't think there was going to be any parking on the streets it would all be in the driveways.

Amanda Mosiman said we have already relaxed everything else on the plat besides the sidewalks so is that the only condition that we are making that and the street plans.

President Valiant asked the street plans were approved correct.

Mrs. Barnhill replied that street plans were approved.

Bob Johnson stated as it stands right now the street plans were approved.

Mrs. Barnhill stated yes, previously it was 16 lots not 18 lots so they have squeezed them in a little bit more. She said some of the setbacks are less than what they were. She stated before it had sidewalks except for along the east side of Lot 5.

Bob Johnson stated Scott I know you just received this and it fell into your hands but he will be honest with you. He said he wasn't a big fan of this project from the start and now it just continues to go downhill in his mind. He stated they keep coming and pushing and squashing more houses together and to him it is just a very over crowded situation and then with no sidewalks... He said he is hearing that there will probably have to be some road changes for grades and slopes and things like that. He stated he is just letting him know how he feels.

Rick Reid asked what did the Drainage Board tell you, is this going to be too much... He said it seems like there are a lot of houses in there and the drainage would be kind of bad.

Scott Buedel stated the comments on the drainage was that everything was in compliance and was acceptable. He said the Outlot is (unintelligible someone else was talking also) for the size of the property it is a decent size.

Amanda Mosiman said this is a primary plat so it is our approval right.

President Valiant asked what are the wishes of the Board.

Amanda Mosiman made a motion to deny PP-19-08 as amended. The motion was seconded by Bob Johnson and carried with a vote of 6-1. Richard Reid voted against denying it.

PP-20-05: Castle Orchard Estates No. 2:

APPLICANT/OWNER: Otto Charles Susec Jr. and Jayne Elizabeth Susec. Property located on the E side of Castle Garden Road and lies between Castle Orchard Lane and Eddie Lane. Approximately 1600' N of the intersection of Jenner Road and Castle Garden Road. Being Lots 1, 2, 3, & 4 in Castle Orchard Estates as recorded in Document 2007R-009080 in the Warrick County Recorder's office and pt NE ¼ NE ¼ 10-6-9. Ohio Twp. (Advertised in the Standard May 28, 2020) *Complete legal on file.*

Jim Morley Jr, Project Manager with Morley, was present.

President Valiant called for a staff report.

Mrs. Barnhill stated there are ten receipts and we have all but two for Steven and Melody Dickerson and Theodore Stahl. She added they were all mailed correctly. She said the zoning was "A" Agricultural and there is no flood plain. She stated they are proposing five lots. She said they have requested no road improvements and that was approved today. She stated they have requested no drainage improvements and the Drainage Board approved that. She said Aaron Franz, from the Warrick County Health Department, has approved the subdivision for septic. She stated Chandler has water capacity. She said it is a five lot residential subdivision. She stated there are actually three existing single-family dwellings and they are proposing two new building sites. She said it is in order. She stated they have presented a waiver for a double frontage lot, which has been reviewed and signed off by Bobby Howard, the County Engineer but it will have to be approved by you guys as a Commission.

President Valiant asked if there was anything to add to the staff report.

Jim Morley Jr. stated they are really just replatting and moving lot lines around. He said two-thirds of the lots already have houses on them and barns and such. He stated they are really just moving some lot lines around that is why the drawing is jumbled because there are a lot of lot lines already and they had to show the existing lot lines, the proposed lot lines, and the existing houses and barns. He said they are really just moving lot lines around but the same people own all of that ground.

After ascertaining there were no questions from the Board or any remonstrators for or against the project, President Valiant called for a motion.

Rick Reid made a motion for approval of PP-20-05. The motion was seconded by Bob Johnson and unanimously carried.

Amanda Mosiman asked if we needed to do with the waiver.

President Valiant replied yes, the double frontage lot.

Attorney Doll asked which lot. He asked is it the big one in the middle.

Mrs. Barnhill stated it is lot 3. She said he already is using both as his access. She stated there is an existing house and he has driveways on both already.

Amanda Mosiman asked so we are giving permission for something that is already being done.

Mrs. Barnhill stated it was a couple of different lots but with it being reconfigured so now it is actually a double frontage lot.

Amanda Mosiman replied okay.

Jim Morley Jr. stated the way it was platted before they didn't need it until we redid the lot lines.

Attorney Doll stated so separate motion to approve for Lot 4 double frontage lot.

Amanda Mosiman made a motion for PP-20-05 that the waiver for the double frontage lot be approved.

Attorney Doll stated for Lot 3 he misspoke.

Amanda Mosiman stated Lot 3.

The motion was seconded by Rick Reid and unanimously carried.

PP-20-06: Gateway Subdivision: APPLICANT/OWNER: Deaconess Hospital Inc. Property located on the S side of Gateway Boulevard. Approximately 400' W of the intersection formed by

Gateway Boulevard and Epworth Rd. Parcel 2 in Epworth Road Minor Subdivision recorded in Document 2010R-005235, Parcel 2 in Gateway Center Minor 2 Subdivision recorded in Document 2019R-008197, and Tract 3 in Gateway Center Minor Subdivision recorded in Document 2005R-013132 in the Warrick County Recorder's Office. Ohio Twp. *Complete legal on file.* (Advertised in the Standard May 28, 2020)

Lyle Mehringer, with 3I Design, Design Engineer and Applicant, and Jeff Grunow, with Deaconess Hospital, were present.

President Valiant called for a Staff Report.

Mrs. Barnhill stated we have all of the return receipts from the certified mail. She said the zoning is "M-1" Light Industrial. She stated there is no flood plain. She said they have one lot. She stated there are street construction plans, they asked for no improvement but the County Engineer wanted a traffic impact study done. She said it went to the Commissioner's today and they have not approved the street plans. She stated the traffic impact study came back and they want some work done at the entrance so they removed it from the agenda to be put back on whenever you have the paperwork ready.

Lyle Mehringer replied okay.

Amanda Mosiman asked so this will be conditional on approved street plans.

Mrs. Barnhill replied yes.

Attorney Doll stated or tabled.

Amanda Mosiman replied or tabled.

Mrs. Barnhill stated the drainage plans have been approved by the Drainage Board. She said Newburgh has capacity for the sewer and Chandler has capacity for the water. She stated the proposed development is for a medical office building on the Deaconess Gateway Compound. She said everything else is in order. She stated another condition is they have requested a waiver from the Subdivision Control Ordinance, which requires a six-foot PUE on each lot. She said due to the already existing private easements in use on these parcels in the proposed subdivision. She stated if you look at the plat there are a lot of easements on there. She said so that would also be a condition. She stated everything else is in order.

President Valiant asked if there was anything to add to the Staff Report.

Lyle Mehringer stated just that all of the utilities exist on site. He asked what the difference would be between tabled and conditional.

Attorney Doll replied until you know what you are doing with your street plans with the County, if the Board approved it the way it is presented and the County comes back and you make a change then this approved set of plans may not be applicable and you would have to come back in and

amend them. He said you can't build until you get the street plans fixed anyway so wouldn't it be better to table this until the next meeting. He asked how quickly will you be giving the County the street plans.

Lyle Mehringer replied it will take a while.

Attorney Doll asked what does that mean.

Lyle Mehringer replied two months.

Attorney Doll asked it is going to take you two months to satisfy the County on the street plan question.

Lyle Mehringer replied yes.

Attorney Doll stated he doesn't recommend.

Lyle Mehringer stated it is off site.

Attorney Doll asked it is off site.

Lyle Mehringer replied yes, what they are requiring actually at Epworth and the south entrance, which is off this property. He said it would be a separate set of plans.

Attorney Doll asked so the change that may be necessary on the street plans will not affect the depiction on this drawing.

Lyle Mehringer replied correct.

Attorney Doll replied thank you. He stated then he thinks you could do it any way you want they just couldn't ...

President Valiant asked but it would still be conditional.

Attorney Doll replied yes.

After ascertain there were no questions from the Board and no remonstrators for or against the property the President called for a motion.

Jeff Willis made a motion to approve PP-20-06 contingent upon the street plans being approved by the County. The motion was seconded by Rick Reid.

Attorney Doll stated there is also a waiver.

President Valiant asked if they wanted to address the waiver in your motion.

Jeff Willis stated yes, with the requested waiver for the easements.

Rick Reid stated his second still applied.

President Valiant stated we have a motion and a second. The motion carried unanimously.

PP-20-07: Castle Ridge:

APPLICANT: Castle Ridge Development, LLC by Jerry Denton, Mgr. OWNERS: Daniel R. & Angela C. Niehaus and Castle Ridge Development LLC, by Jerry Denton, Mgr. Property located on the E side of Coal Mine Road. Approximately 155' S of the intersection of Coal Mine Road and Paige Drive. Being Tract 2 & 3 in Arvin Minor Subdivision recorded in Document 2003R-010272, Lot 6 in Timber View Estates II Subdivision recorded in Document 2019R-002043, Parcel 3 in Brockman Minor Subdivision recorded in Document 2019R-006240 and SE & SW ¼ in 14-6-9. Ohio Twp. (Advertised in the Standard May 28, 2020) *Complete legal on file.*

Scott Buedel, with Cash Waggner and Associates was present.

President Valiant called for a Staff Report.

Mrs. Barnhill stated we have all of the green cards except for one from Kerry Lee and Terry Don Cline. She said we do have the white pay receipt and everything was mailed correctly. She stated it is zoned "A" Agricultural. She said they have also filed to rezone the property to "R-1A" and that is also on the agenda for tonight. She stated there is no flood plain. She said they have 42 lots and one outlot. She stated street construction plans were approved tonight by the Commissioners. She said the Drainage Board did approve their drainage plans. She stated Chandler has capacity for sewer and capacity for the water. She said 43 residential lots and everything is in order. She stated the Subdivision Control states where it is desirable and is the opinion of the Plan Commission to provide street access to abutting property, proposed streets shall be extended by dedication to the boundary of such property. She said the Commission may require additional access on any development where deemed necessary. She stated Bobby Howard, Warrick County Engineer, has submitted an email that recommends the subdivision connects for better traffic conectability. She said you have the email in your packets. She stated we have also received more complaints throughout the day and she has made copies and they are in your packets. She stated she also emailed them to everyone earlier today. She said everything is in order.

Attorney Doll asked if we should deal with the rezoning before we deal with the plat.

The President asked do we want to jump to the rezoning.

Attorney Doll stated that would make a different set of parameters.

The President stated we would jump to the rezoning on this matter.

PC-R-20-07: PETITIONER: Castle Ridge Development, LLC, by Jerry Denton, Mgr. OWNERS: Daniel R. & Angela Niehaus and Castle Ridge Development, LLC, by Jerry Denton, Mgr. To

rezone 29.418 acres located on the E side of Coal Mine Road. Approximately 155' S of the intersection of Coal Mine Road and Paige Drive. Being Tract 2 & 3 in Arvin Minor Subdivision recorded in Document 2003R-010272, Lot 6 in Timber View Estates II Subdivision recorded in Document 2019R-002043, Parcel 3 in Brockman Minor Subdivision recorded in Document 2019R-006240 and SE & SW ¼ in 14-6-9. Ohio Twp. from an "A" Agricultural zoning district to "R-1A" One Family Dwelling zoning district. Ohio Twp. (Advertised in the Standard May 28, 2020)

Mrs. Barnhill stated the notices were mailed with the notice for the Primary Plat so that is the same. She said the "R-1A" has a minimum lot size of 9,000 square feet. She stated the Comprehensive Plan projects the area to be moderate to high density residential. She said the existing land use is a residential and a lot of vacant property. She stated the surrounding zoning and land use is to the north "R-1A" with single-family dwellings, to the west is "R-1A" and "A" with single-family dwellings. She said the south is "R-1A" and "A" with single-family dwellings and to the east is "A" with single-family dwellings. She stated to the northeast is "R-1A" with single-family dwellings. She said there is no flood plain and they have access to Coal Mine Road and Union Drive. She said the stated use is a residential subdivision, which would be compliant. She stated everything is in order.

The President asked Scott Buedel if he had anything to add to the Staff Report.

Scott Buedel replied no, the surrounding is "R-1A" or "A" except for two fields on the west side of Coal Mine Road are used for residential purposes. He stated it is definitely a residential area that this would conform with.

Mrs. Barnhill asked Mallory Herman to make certain nobody was outside of the room waiting to come in.

Mallory Herman checked and stated no one was outside waiting.

After ascertaining there were none, no questions from the Board and no remonstrators for or against the rezoning the President called for a motion.

Bob Johnson made a motion for a recommendation of approval for PC-R-20-07 Castle Ridge for the rezoning. The motion was seconded by Jeff Willis and unanimously carried.

Attorney Doll stated this would be submitted to the Commissioners for the final approval.

Mrs. Barnhill stated that meeting would be on July 13, 2020 at 4:00 p.m.

President Valiant said so back to the plat. He asked if there was anything to add to the Staff Report.

Scott Buedel stated just to give a little perspective on it. He said they started working on this back over a year ago back in May when they first saw the property and did some preliminary layouts. He stated there was a potential issue with a legal drain that runs through the property. He stated they petitioned the Board, went to the Drainage Board and resolved that issue. He said he thinks

it was more just confusion and mapping verses having to relax anything. He stated that was taken care of over a year ago. He said they have worked on some environmental issues on the property. He said they have taken care of the environmental issues, they have mitigated off site a four acre tract of land to take care of some of the ditch crossings and some of the wetlands that would be impacted by the development. He stated they have had some history going back and trying to get some of these things resolved to get to this point as far as where we are right now. He said as far as the comment about the road and the interconnect he thinks from the beginning of this the developers wanted to... He stated he should say he is there with Donnie Denton tonight, one of the partners in Castle Development, Daniel Niehaus is also a partner in that development and this is actually his residence. He stated the house that sits on that property now is Dan Niehaus' property. He said he is very familiar with the property and the neighbors and so forth. He stated from the beginning they have wanted this to be its own separate subdivision and not have the interconnect with Union Drive and even from those initial exhibits that we turned in back in May of last year it has for the most part been the same layout and same two cul-de-sacs. He stated the only thing that has changed over the course of time there was an additional five-acre tract at the southern end of the development. He said there was another five-acres that was purchased from Brockman just to add on to the development so for the most part for over a year they have had the same general lay out where they have the two cul-de-sacs and the interconnect would not be there. He stated they have learned that not only do the developers want to have a separation between the two subdivisions the owners in Gourley also want to maintain that separation and not have an interconnect through there. He stated he thinks there is a lot of kids in the subdivision to the north and there may be in this one too but just having that through traffic he thinks that is a concern for everybody. He stated in addition to the roads themselves they have submitted a request for relaxation or just due to the road lengths themselves because due to the shape of the property and trying to get to the back end some of the lengths of the roads extended beyond the 1320' that is called for by ordinance. He said they have submitted a letter requesting relaxation for the length of that road.

President Valiant asked if there were any questions from the Board.

Amanda Mosiman asked so the current house on the property is going to sit at Lot 10 by the way that this looks.

Scott Buedel responded yes, that is Dan and Angela's house.

Amanda Mosiman replied okay.

President Valiant asked if there were any remonstrators for or against to come forward.

Attorney Doll stated the record shows there are several remonstrations that have been submitted to the office in writing because of Covid-19. He said technically we are supposed to read those into the record but he doesn't recommend that. He stated what he recommends is a motion to waive the reading but to acknowledge them in the record of tonight's preceding. He stated you could maybe announce the names...

President Valiant stated or like a general... He said it seems like they all have the same idea...

Attorney Doll said yes, but you could identify them for the record without reading the whole letter is what he is suggesting.

Mrs. Barnhill stated Zach Winsett, Jill Howery, Adam Akin, Kristy Probus, Woody Probus, Brian and Julie Leishman, Raquel Pickard, Frank and Lisa Huey, John Pickard. She said that is all of them.

President Valiant asked if the Board had a chance to review them earlier. He asked if everybody would tend to agree they all had the same line that they didn't want to connect to the subdivision.

Several Board members agreed.

After ascertaining there were no questions from the Board and no remonstrators for or against the project, President Valiant called for a motion. He said we will need to make a decision on the street correct.

Attorney Doll replied yes, a waiver of the length restriction.

Jeff Willis asked if there is a 30' Public Utility Easement there where the road would have been.

Scott Buedel replied yes, there is. That is where the sanitary sewers would connect so there is an easement there for that and he thinks there is an easement there for SIGECO that runs through there too.

Jeff Willis stated so there wouldn't be a house built right where the road would connect in case 10-20 years from now they would change their mind.

Scott Buedel responded the lots are going to be off on the side for the most part facing like if it was a through road but they would just prefer to not have the interconnect.

Jeff Willis asked if it would be possible to put a sidewalk where that road, not necessarily the whole width, but like a five foot sidewalk to connect to the cul-de-sacs. He stated the only reason he asked is that where he lives now all of the neighbors are cutting through his yard to get to the subdivision behind him and he can see kids living in this subdivision wanting to hang out with the kids living in Gourley Place. He said obviously they don't want the traffic but if they are walking do they really want them walking all of the way to Coal Mine Road and then walk back down the subdivision, they are going to cut through the grass anyway.

Scott Buedel said yes, they could do that.

Amanda Mossiman stated it was mentioned in at least one of the comments....

Scott Buedel said for a sidewalk connections.

Amanda Mossiman replied yes, that that would be acceptable but not the thoroughfare.

President Valiant stated if everyone is done with questions he would call for a motions.

Amanda Mossiman stated she moved that they approve PP-20-07 with the road length waiver and not by connect with a thoroughfare street but to include the sidewalk.

The motion was seconded by Bob Johnson and unanimously carried.

PP-20-08: Warrick Research & Industrial Center East: OWNER/APPLICANT: Maken Corporation, by Daniel Ubelhor, President. Property located on the S side of Prospect Drive. Approximately 300' E of the intersection formed by Prospect Drive and Commerce Drive. PT of the W ½ NE ¼ and E ½ NW ¼ S19 T6 R8, Ohio Twp. *Complete legal on file.* (Advertised in the Standard May 28, 2020)

Jim Morley Jr., Project Engineer, and Danny Ubelhor, with Maken Corporation, were present.

President Valiant called for a Staff Report.

Mrs. Barnhill stated we have all of the return receipts except for one green card from Gabe and Marianne Mehringer, but we do have the white pay receipt showing it was mailed correctly. She said the zoning is "M-2", which is General Industrial. She stated there is no flood plain on the property. She said they are proposing 15 lots. She stated they have requested no improvements made to Prospect Drive. She said the proposed road is a commercial easement that will be privately maintained. She stated a full set of street plans were required and they have been approved by the Commissioner's. She said the Drainage Board has approved their drainage plans. She stated Newburgh Sewer has capacity for one building at this time but they capacity will be available once the improvements including Blue Lake lift Station and gravity line upgrades and Victorian National's lift station and gravity lines have been completed. She stated they will issue a capacity letter for the complete subdivision at that time. She said the water is Indiana American and they have capacity. She stated the proposed development is a general industrial subdivision with lots ranging from a ½ acre to four acres. She said the plat is in order. She stated we have had a complaint filed by Lakota Huebner, President of the Newburgh Civitans. She said she placed a copy in your packets. She stated we have actually had another one filed since then, there are two complaints. She asked if she should read them.

President Valiant stated since there is just two yes, please.

Mrs. Barnhill stated "Warrick County Area Plan Commission our property is along Vann Road having an industrial site behind us seemed like a great idea until they realized that the street they learned behind their property would probably include heavy lighting. We are non for profit with 50% of our haunted house is outside. It starts in October and runs through October 31st. Our door is open every Tuesday all year for sixth through twelfth grades from throughout the tristate area. We have over one hundred juniors on our roster. We normally have twenty to thirty juniors to show up every week. Some of our projects have been volunteering for the Knights of Columbus for special needs fishing tournament, pet food drives, clothing drives, Easter Seals telethon, Fantasy of Lights. Adults volunteer each year Evening on the River in Evansville, Special

Olympics at North High School. Our largest event is the haunted house. It is open Thursday through Sunday for the month of October. We have been at our current location for over twenty years and are worried that probable lighting from this build would ruin the outer part of our event thus damaging our income. The income we receive from this project allows us to add new attractions to our event, donate to some of the previous mentioned events, and the FOP's Christmas for kids. Any suggestions that you all have would be greatly appreciated. Thank you, Newburgh Civitan Board President, Lakota Huebner. She said the other ones says we are a non-profit organization and have been serving the tristate since 1972. Both our adult and junior clubs serve the tristate area with our service projects, fund raisers, and by volunteering our time. We keep the Civitan Mission close to our heart of building good citizenship by volunteering for individual and community needs with an emphasis on helping people with developmental disabilities. Our concern is for our non-profit haunted house that has been running since 1974. This is a project that our junior and adult club work on all year long on. We are wanting to know how the lights will affect us during our haunting season. We run Thursday through Sunday in October from 7-9 on Thursday and Sunday then 7-midnight on Friday and Saturday. Part of our haunted house runs through our backyard, which would be affected by high powered lights, which is where our concern comes in. We want the best experience for our customers so we can keep them coming back and we are able to donate more money back to the community. We are not opposed to the property being used behind us. We are primarily concerned with how the lighting will affect our haunted house just for the month of October. Since our outdoor maze is half of our haunt if we are not able to give the full effect we will have to shut our yard down and cut our prices, which means less use of our junior members sixth through twelfth graders and a loss in our profit donations. We currently hold 130 junior members who come out in full swing every year for the haunted house with 20-30 who come to our weekly meetings year round. We would hate to not be able to use each one of them to their full potential. We are not sure if there is anything that you would be able to do but we are truly hoping you can help us to continue to serve our community. Thank you Courtney Racine, with Newburgh Junior Civitan, Advisor and Secretary.

President Valiant said Thank you, Molly. He asked Mr. Morley if there was anything you would like to add to the Staff Report.

Jim Morley Jr. said he could address that. He said it sounds like they are basically both from the Junior Civitan and both concerned about lights. He stated in their situation this plat if you look at it to give you some clarity on what exactly... He said for lack of some better terms this is a small business incubator commercial sub. He stated each of those lots have a relatively small building pad on them where pretty much the only thing behind them is the utility easement for the sanitary sewer comes up one side and drainage ditch goes down the other. He said those lights are designed to work out the front side of the building. He stated you will see on that plat there is a center drive easement but then there is also a large maneuvering easement for a Mom and Pop, a dive shop, or a plumber, electrician, or something like that to be able to get a truck in or something like that. He said the buildings were set to work out the front so he would be surprised if they had any lights on the back to be honest with you. He stated they may have an air conditioner pad or something out back or something but the size of those lots are not built to work out the back. He said they are all built to work out the front and that is on that plat, you will see the ingress/egress easement down the middle and then all of the maneuvering room and that is the indicator that is where all of the doors and everything is on the fronts of those buildings to be able to maneuver. He stated the lots

to be honest with you were never designed to have overhead doors and docks out the back they just aren't big enough to do that. He said he gets their concerns about needing the dark for a haunted house but in this situation the way those lots are created the reality it goes to the favor so to speak.

Bob Johnson stated Jim, we had several come to our Commissioner meeting today and they were mostly the younger kids, teenagers....

Jim Morley Jr. asked so that is why the younger kids were in here.

Bob Johnson replied yes, and they would talk to us. He stated they are not opposed to this at all they are just very concerned about their haunted house of course. He said they were very open to maybe having during this month if there are lights that interfere that we could have them on a timer and shut them off until they close. He stated there are a lot of options here.

Jim Morley Jr. stated he would surely think that anybody out there is going to work with us. He said that is a good organization and he can't imagine anybody....

Bob Johnson stated we mentioned Mr. Ubelhor as well and how much he contributes to our community and that he is a good guy to get along with.

Jim Morley Jr. said he totally didn't believe there would ever be a problem but he is sure that they would want to work with the Civitan for the week long or for however long the haunted house is open.

President Valiant asked for questions from the Board.

Jeff Willis asked if there was a way we could limit the high end of the downward facing lights that they would be putting on the back.

Jim Morley Jr. stated he has never seen that on a plat before.

Jeff Willis stated he guessed that would be more on the building permit.

Jim Morley Jr. said the way these are set up they are literally going to work out the front of them that is where all of the doors are set to be, that is where the parking is set to be, and that is where the turnaround is set to be so he doesn't know that they would have any lights in the back to be honest with you. He stated they are not big lots that you would have storage behind the building to where you would need the big overhead lights. He said as you can see....

Amanda Mosiman asked are you going to have any sort of use commitments for these individual that are going to be utilizing this space where that might be addressed.

Jim Morley Jr. replied no, there is no use and development commitment. He said if you look at the pads there are a lot of easements on this document and... can he sneak a peek over someone's shoulder. He said the buildings at themselves is really from this easement to there is about 60'

deep from there to there and so there is just not much room for that. He said a normal building is about 60' or 70' deep...

Bill Byers asked if there was going to be any parking in the back.

Jim Morley Jr. replied no, the size of the lots and the type of the development really take care of that concern. He stated if they were bringing to you guys a two acre lot where they could have a big storage yard or whatever behind that would be of a concern but because of the way this is set up the lots just don't lend themselves to that.

After ascertaining there were no more questions from the Board and no remonstrators for or against, President Valiant called for a motion.

Rick Reid made a motion to approve PP-20-08. The motion was seconded by Bob Johnson and approved unanimously.

PP-20-09: Oha Realty: OWNER/APPLICANT: OHA Realty LLC by Edward Fox, Owner. Property located on the W side of Epworth Rd. 0' N of the intersection formed by Epworth Road and Stahl Road. Ohio Twp. -3699 *Epworth Rd- Complete legal on file.* (Advertised in the Standard May 28, 2020)

Adam Dehart, Project Manager with Keller Webb and Associates, was present.

President Valiant asked for a Staff Report.

Mrs. Barnhill stated we have all but two of the return receipts. She said the first one for Summit Land Development LLC and the second one is for Rupert Family LLC, we do have the white pay receipts showing they were mailed correctly. She said the zoning is "C-4" General Commercial. She stated Lot 1 is mainly the five hundred year flood plain with a small portion being in no flood plain at all. She stated Lot 2, we still issue permits with a five hundred year being out of it. She said there are two lots. She stated they have requested no street improvements to Stahl Road of Epworth Road, which was approved today. She said the Drainage Board approved their request for no drainage plans. She stated Newburgh Sewer services the area but we did not get a capacity letter for this. She said we don't have capacity on sewer but Chandler Water does have capacity. She stated the proposed development is a two lot commercial sub and Lot 2 is the location of The Oncology/Hematology Associates and the other lot will be used for commercial development. She said everything is in order except for the capacity from Newburgh Sewer. She said she believes they wanted some calculations before they were willing to issue a capacity letter and they did not get those.

Adam Dehart stated to answer that particular question he has been in contact with them several times. He said in late May he sent the volume of water on their assumption of what might be built on the 3 ½ acres since they don't plan to build anything there. He stated that information was rejected. He said he talked to their office on Thursday or Friday when he copied the Area Plan Commission office on what they were finding. He stated they requested the exact same question information again. He said it was given to them again with additional calculations that they

requested and he asked if they had received them and accepted them. He stated he hadn't heard anything from them. He said on either Friday or early this morning he received an email from them that it would be later this week before they could even look at the situation. He stated what he would ask this Board since he has travelled 3 ½ hours to get here and trying to take care of his client too is if that could be a condition of approval to obtain that letter from Newburgh Sewer and he will certainly continue to provide them with anything and everything they need to be able to provide that letter.

Amanda Mosiman asked so it is really only the one building lot since the other one is already the Orthopedic Associates.

Adam Dehart replied yes ma'am, the doctor is wanting to get out of the building ownership business and is wanting to sell his seven acres where the building is in operation with no changes and retain the 3 ½ acres for him in the future, which he has no idea what he will build there but it is his property.

After ascertaining there are no questions from the Board and no remonstrators for or against the project, President Valiant called for a motion.

Jeff Willis made a motion to approve PP-20-09 contingent upon sewer approval. The motion was seconded by Rick Reid and unanimously carried.

Adam Dehart said thank you for your time and they will get that sorted out he promises.

Mrs. Barnhill replied okay.

REZONINGS:

PC-R-20-04: PETITIONER/OWNER: James & Misty Stradtner. To rezone .569 acres located on the E side of Anderson Rd. a distance of 1500' S of the intersection formed by Anderson Rd and Lincoln Ave, being Parcel 1 in Stradtner Minor Subdivision as recorded in Document 2019R-009664 in the Warrick County Recorder's office from an "A" Agricultural zoning district to "C-3" Highway Commercial zoning district with a Use & Development Commitment. Ohio Twp. *Complete legal on file.* (Advertised in the Standard May 28, 2020)

James Stradtner and Chad Wagner, Surveyor and Consultant on this project, were present.

Mrs. Barnhill stated we have all of the certified mail receipts showing they were mailed correctly. She said there is no minimum lot size for "C-3". She stated the Comprehensive Plan shows the area to mostly high density residential. She said the existing land use is the Pool Doctor and a CPA business. She stated the surrounding zoning and land use is to the east is "R-1" being Lincoln Pointe Estates Phases 1 & 2. She said to the south is zoned "A" with single-family dwellings and fields. She stated the west is zoned "R-1", which is vacant and "A" with single-family dwellings. She said to the north is "A" and is vacant. She stated there was a complaint filed in April of 2019 stating the property owners were running a retail store out of their barn. She said we contacted the owners and had them come to a site review meeting. She stated they were told they could split the

property and separate the barn, which they were using for the business, away from the house and then file to rezone. She said they have done a Minor Subdivision and if this is approved it will be bringing the existing violation into compliance. She stated there is AE flood plain in the area but a Letter of Map Amendment has removed the building. She said the existing access is to Anderson Road. She said the stated use is a pool supply store and CPA business, which would be compliant. She stated the Use and Development Commitment limits the use to The Pool Doctor, which is a pool supply and service company, and by Professional Tax and Accounting Services operated by Misty Stradtner CPA. She said everything is in order.

The President asked if there was anything to add to the Staff Report.

Chad Wagner and James Stradtner replied no.

The President asked for any questions from the Board.

The President asked how long they had been running the business from this location.

James Stradtner replied since they moved there, five years ago. He said they have been in business since 2003.

Amanda Mossiman asked what the complaint basis was for... just that they were running a business or were there any particulars.

Mrs. Barnhill stated because they were running a business out of the barn and there was a sign out front.

Jeff Willis asked if they had a lot of walk-in traffic.

James Stradtner replied when they come to the business they are one at a time and maybe 3-4 a day so it isn't high retail and he never wants to be high retail. He stated if he wanted high retail, he would be in a high retail location. He said he just wants a place for his customers to come, have their water tested, pick-up any need or part, a place for the guys to park the vans, and it is convenient to work out of the house. He stated he tries to keep the place landscaped, if any of you have been by it there is one little sign out front. He said it is like a mailbox sign or hanging sign. He stated it is about so big with his and his wife's name on it. He said it isn't a lit up display or LED broadcasting sales. He said he tries to be a good neighbor.

After ascertaining there were, no further questions from the Board or any remonstrators for or against The President called for a motion.

Amanda Mosiman made a motion to move PC-R-20-04 forward with a favorable recommendation. The motion was seconded by Bob Johnson and unanimously carried. The President stated this would go to the Commissioner's meeting on July 13, 2020.

PC-R-20-06: PETITIONER/OWNER: Ted Brown's Quality Paint & Body Shop, LLC by Ted Brown. To rezone 0.298 acres located on the E side of Epworth Rd. a distance of 1220' N of the

intersection formed by Epworth Rd. and Oak Grove Rd. from an “A” Agricultural zoning district to a “M-1” Light Industrial zoning district. Ohio Twp. *Complete legal on file.* (Advertised in the Standard May 28, 2020)

Jim Morley Jr, Project Engineer with Morley, and Ted Brown were present.

The President called for a Staff Report.

Mrs. Barnhill stated we are missing green cards from Gayle Annette Dorsey Etal, Arthur and Anna O’Bryan, and Oak Grove Investments but we do have the white pay receipts showing they were mailed correctly. She said they are proposing “M-1”, which does not have a minimum lot size and it is .298 acres. She stated the Comprehensive Plan projects the area to be light industrial. She said the existing land use is personal storage and a single-family dwelling. She stated the surrounding zoning and land use is to the north “M-1” with his existing automotive and paint and body shop. She said the north and northwest is “A” with single-family dwellings or vacant. She stated to the west is “A” and is vacant and to the southwest is “M-1” being Oak Grove Investments. She said to the south and east is “A” and is vacant. She stated there is 500-year flood zone and a Letter of Map Amendment removing the whole parcel from the flood plain. She stated they have an existing drive on Epworth. She said the stated use is storage, which would be in compliance. She stated the property has a single-family dwelling that the owner has been renting out but has been using the barn for his personal use. She said now Mr. Brown wants to add to the barn but is not able to with the current zoning due to the lot coverage requirement in Agricultural zoning, which is up to 30% lot coverage. She stated the “M-1” zoning allows up to 100% lot coverage minus setbacks but does not allow for the single-family dwelling. She said the existing home would need to be totally removed or have the kitchen removed so it no longer falls under the definition of a one family dwelling if the rezoning is approved. She stated everything is in order.

The President asked if there was anything they wanted to add to the Staff Report.

Jim Morley Jr. replied no, it is good. He said he just needs more room.

After ascertaining there were, no more questions from the Board or any remonstrators for or against the rezoning the President called for a motion.

Bob Johnson made a motion to give a positive recommendation for PC-R-20-06 to the Commissioners. The motion was seconded by Jeff Willis and carried unanimously.

Jim Morley Jr. asked subject to Molly being able to get the minutes prepared is there a way this could go to the Commissioners meeting in two weeks because of the virus things are behind schedule so they are looking to gain two weeks.

Attorney Doll asked so you want to waive time.

Jim Morley Jr. replied yes, if Molly can get the minutes done. He stated they understand it would be subject to her getting them done.

Mrs. Barnhill stated yes.

The President asked her if she would be able to get them done.

Mrs. Barnhill stated her office is good with it.

Bob Johnson made a motion to waive the time frame for PC-R-20-06. The motion was seconded by Rick Reid and carried unanimously.

Jim Morley Jr. said thanks for working with us.

Mrs. Barnhill replied you're welcome.

PC-R-20-08: PETITIONER: Dillon Swartz. OWNER: Joseph & Carmon Willis. To rezone .32 acres located on the N side of Owens Drive. Approximately 300' E of the intersection formed by Owens Dr. and SR 261. Lot 93 in South Broadview Section C Subdivision recorded in the Warrick County Recorder's Office as Plat File 1 Card 198 from "R-3" Resort zoning district to "R-1A" One Family Dwelling zoning district. Ohio Twp. (Advertised in the Standard May 28, 2020)

Dillon Swartz and Gayle A. Schafer, Power of Attorney for Joseph H & Carmon K. Willis, were present.

The President called for a Staff Report.

Mrs. Barnhill stated we have all of the return receipts. She said they are proposing "R-1A", which has a minimum lot size of 9,000 square feet and the property is 11,700 square feet. She stated the Comprehensive Plan projects the area to be moderate to high density residential. She said the existing land use is a single-family dwelling. She stated to the north is "R-2B" with apartments and to the east and west is "R-3" with single-family dwellings. She stated to the south is "R-1A" with single-family dwellings being Broadview Subdivision. She said this ground was zoned "R-3" Resort District in 1969, which at the time allowed for single-family dwellings. She stated they are now in the process of selling the home and the bank has asked if in the case of a disaster the owners could rebuild on this lot as is. She said now with the current Ordinances in place a single-family dwelling cannot be re-constructed in "R-3" zoning so they had to rezone before the bank would issue the loan. She stated there is no flood plain. She said the existing drive is on Owens Drive. She said the stated use is a single-family dwelling, which would be in compliance. She stated we do have copies of the powers of Attorney, which they have an appointment on Wednesday to get them recorded.

The President asked if there was anything to add to the Staff Report.

Dillon Swartz stated he wanted to give the background that he knows. He said he grew up in the house right next to this one and they became close with the Willis family. He stated recently, unfortunately, it became necessary for the Willis' to go into an assisted living facility and Joseph offered to sell him the home. He said as he was going through the mortgage process with the bank the loan officer informed him that due to the current ordinances they could not continue with the

mortgage, he checked with three other mortgagors, and they all said the same thing that a mortgage couldn't be written on property as long as it is zoned this way. He said it is in the middle of a neighborhood as you can see on your maps it is not a commercial use so that is why he needed to go to "R-1A" to be continued to be used as a single-family dwelling.

Amanda Mossiman made a motion to give a recommendation of approval for PC-R-20-08 to the Commissioners. The motion was seconded by Rick Reid and carried unanimously.

The President stated this would go to the Commissioner's meeting on July 13, 2020 to get the final approval.

AMENDMENT TO THE ZONING ORDINANCE:

Attorney Doll dialed into the conference call.

Peter Moritzburke answered.

Mrs. Barnhill stated that we have him on the conference phone. She asked if he could hear them.

Peter Moritzburke said he could hear loud and clear.

Mrs. Barnhill said okay.

Attorney Doll said this is the Public Hearing of the proposed amendment to the Warrick County Comprehensive Zoning Ordinance to create an SU-29 Commercial Solar Energy System Provision under Article V "Special Uses" in Warrick County. He said this issue was brought forward at the request of the County Commissioners for us to look at the possibility of creating a special use or something within the zoning code to permit the construction of large commercial solar energy systems. He stated these are large systems containing many photovoltaic cells, or solar cells, which as we know generate electricity from being exposed to photons of light particles. He said they are hundreds of acres of size and there is expressed interest in this county for this development. He stated Peter works for a company that does this in multiple states, he believes, with Orion Renewable Energy. He said Peter has been provided with a copy of the proposed ordinance. He stated this proposed ordinance is a result of the meeting of a study committee consisting of some members who are here tonight, as well as all three County Commissioners. He said it began by taking a review of similar ordinances of other counties, both in Indiana and Illinois and he believes one county in Ohio. He stated this is not to recreate the wheel, but to learn from what others have already learned and implemented on this topic. He said it begins with a preamble to talk about the importance of solar energy as an additional energy source. He stated it talks about the County being interested in encouraging the development of renewable energy. He said it talks about the County not wanting to see prime farmland gobbled up or converted to solar farms, solar energy farms, rather that it would be helpful that we can find other types of property that would be more suitable without taking prime farm ground, as defined by the US Department of Agriculture, out of productivity. He stated it talks about implementing and improving these special uses consistent with the property rights of everyone. He said that would be neighbors, property owners who are leasing the property for this purpose, or others. He said it was to control the construction installation and operation of CSES, which is

commercial solar energy systems, within Warrick County, and to avoid adverse impacts on agricultural land or conservation land or other environmental sensitive areas. He said this does not abridge any other regulatory statute, State or Federal, in any way. He said it's the process by which these large-scale developments could be constructed in Warrick County going forward. He said this regulates what we call larger solar farms and it only regulates ground based solar farms. He stated some solar panels could be affixed to buildings, they would not be regulated by this process in this ordinance. He said it is the consensus of the study group that building affixed solar panels generally generate electricity that may be consumed by that building. He said this is designed to deal with business solar farms. He stated the limitation on page two sub-paragraph A, this would regulate CSES that contain 32,000 or more square feet in photovoltaic panels. He said at the time they determine that number, which frankly he's the one that made the calculation, it was felt that we'd be occupying about three quarters of the surface area of ground with cells. He said we have since learned, which Peter has offered some evidence of, that that's too concentrated in assumption. He said in reality, the panels, occupy forty percent approximately of the surface area of the land upon which they are mounted. He said therefore, one of the first questions that the Board could consider tonight is whether you want to change the 32,000 number. He stated if you want to limit this to approximately one acre being exempt from the requirements of this registration of a special use then you need to lower the 32,000 to 17,000 on the other hand, if you're comfortable with 32,000 or more square feet being the trigger number requiring the Special Use, we leave it alone. He stated but all of us then need to comprehend that really talking about developments of two acres instead of one acre. He said in the study committee group we really didn't talk about the acreage being a big deal, but we did use this number throughout the three meetings that we met and discussed this. He said it would require a Special Use after the adoption of the ordinance for any development that triggered that size. He said it would have to be required. He said it talks about being in compliance with building codes, fire codes, limitations in the placement of floodplains, historic preservation districts, and federal aviation regulations. He said there would be no signage other than what's required under the national code. He said it would be located at a manner to insure access 24/7 under the Indiana Fire Code with the approval of that access with a knock box with keys for the local fire protection emergency response so they can enter the property at any time should they have to. He said it may occupy the entire property less customary setbacks applicable. He said we did modify that indicate the setbacks in sub-paragraph D, page two would be not less than 25 feet or more than 100 feet. He said it has to provide for ingress and egress of emergency access of vehicles if necessary. He said we have, in the ordinance, landscaping requirements. He said it requires it to be landscape with pollinator-friendly seed mixes and native plants at the ratio of one square foot of plantings for every two square feet of solar panels. He said if it's located within one thousand feet of a residential subdivision, a major commercial development, or a heavily traveled public highway, the CSES site shall be designed to maximize the use of appropriate vegetative buffer to minimize its visual footprint using vegetation variety recommendations provided by our County Extension Service, with some familiarity with that. He said all vegetative buffers and landscaping must be displayed upon the site plan that's to be taken to site review for preliminary approval. He said power transmission lines connected to the CSES would be underground. He said we're not talking about panel to panel to panel, but we're talking

about the CSES to the transmission line. He said it was to be underground and shielded against shock hazard. He said driveway servicing it as it enter the property from the county road would have to be of a durable service to meet minimum specifications from the County Highway Engineer. He said the internal roads on a case by case basis could be reviewed by the BZA to determine where they needed to be paved or whether a porous driveway surface would be acceptable or not. He said when it reaches the end of its useful life and is about to be abandoned, Sub-paragraph g, page three, there is a requirement for the physical removal right now within 180 days after the date of disconnect. He said to be determined by the County Commissioners, it could be extended, to remove all of the physical improvements to the site and dispose of all solid and hazardous waste in accordance of local laws, and state and federal disposal regulations. He said the Warrick County Commissioners might approve reasonable requests to leave the landscaping in place, or designate below ground foundations to remain in place if it serves to minimize erosion or disruption of existing vegetation. He stated absent of notice of the proposed date of decommission or written notice of the circumstances, a CSES will be considered abandoned when it fails to operate for more than one year without the prior consent of the Warrick County Board of Commissioners. He said if the owner of any CSES fails to remove the installation accordance of the requirements within the 180 day time period, Warrick County shall have a right with or without a Court Order to enter and remove any abandoned, hazardous, or decommissioned solar farms as a condition of the issuance of an Improvement Location Permit. He stated the applicant and owner must agree in writing to allow Warrick County to do that. He said H, and we've debated the language of H many times. He said the applicant, owner, or developer, that's the three people that could be involved on behalf of the owner consisting of 32,000 square foot or more photovoltaic panel area, shall file with the Warrick County Commissioner, a legally binding instrument like an irrevocable letter of credit or cashier's check from a duly chartered financial institution satisfactory to Warrick County. He stated that all improvements and installations, required as a condition of the approved application and plat, will be constructed in accordance with the standards of this ordinance. He said and to secure the payment of the cost of the removal of any abandoned CSES including the photovoltaic panels, and all associated equipment and buildings, which have been determined to be abandoned or found to be in non-compliance with the ordinance. He stated such financial security shall be the minimum amount of 125% of the cost estimate submitted by the applicants registered professional engineer for the demolition and removal of the CSES based upon; a) the estimated length of the useful life of the CSES, otherwise how many years will this solar farm likely exist and function and b) what was the cost estimate at the end of the useful life expectancy of the CSES. He stated these required security fund conditions shall not be applied to municipal corporations, if the City of Boonville wants to build any of these in Warrick County, it wouldn't be required to post the 125% or the School Corporation. He stated they are exempt pursuant the state statue. He said the irrevocable letter of credit or cashier's check should be filed prior to an Improvement Location Permit being issued. He stated any funds released by the Warrick County Auditor shall be made only upon receipt of an approved certificate signed by the Warrick County Commissioners. He said in the event an Irrevocable Letter of Credit is utilized, it shall auto renew for at least five years at a time. He said in the event that the lending institution sends a notice of cancellation, a replacement irrevocable letter of credit or cashier's check shall be timely

submitted so as not to permit any lapse in surety. He stated the owner shall submit to the Warrick County Commissioners a re-evaluation of the 125% cost estimate of demolition removal every five years. He said at which point in time the Commissioners will re-evaluate what they believe that surety needs to be. He said such irrevocable letter of credit should comply with all statutory requirements and be satisfactory to the County Attorney as to form and substance. He said the following additional terms apply, currently if we would approve an SU-29 then the applicant needs to start construction within two years of the date of approval. He stated if the real property is used as a site is leased, then the legal consent of all the parties specified it will be used for CSES for the duration of the project has to be supplied. He said a Preliminary Site Plan has to be submitted to Warrick County Review, intended layout prior to the submission to the application to the Board of Zoning Appeals. He said Final Site Plan approvals sealed by the Engineers of Record should be submitted as part of the application for the Special Use. He stated such preliminary and final site plans should display the location and placing of the panels and their setback distances, the location of public roads, ingress and egress, etc. He said equipment specification sheets for the equipment to be used should be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are applicable to be installed. He said the Special Use application shall include a description of the continuing photovoltaic maintenance and property upkeep plans. He said a decommissioned plan must be submitted as part of the Special Use application. He said compliance with this plan should be made a condition of the approval of the Special Use. He stated the plan must include the estimate we were talking about by the engineer of a likely cost of the commissioning. He said a minimum of one acre is required for each CSES. He stated the surface area of the photovoltaic cells should not be included in calculating the total lot coverage prohibitions. He said the CSES should not exceed the maximum height restriction of the zoning district. He said all CSES will have one warning sign, which will be surrounded by an eight foot fence. He said the warning sign should say high voltage. He said the sign should be no larger than four square feet and it will display the owners emergency contact information, facility name, 911 address, GPS coordinates, and any other requirements required by the National Electric Safety Code. He said the applicant at all times would maintain the fence and all the improvements in the vegetation plan. He stated if they fail to do so Warrick County, by the Commissioners, can fine them for failing to maintain at the rate of \$200 per day for each five-acre area of the CSES site. He stated this would be if Warrick County took on the responsibility to mow vegetation or keep it up if it's been allowed to lapse and be un-kept. He stated reasonable accessibility to the satisfaction of local emergency management personnel is required and we would have to have proof of that. He said no CSES should be constructed until evidence is submitted and proven that the owner and applicant has been approved for a power supply contract by a suitable third party. He stated this is not to be a speculative development, but a development that has a buyer for the energy at hand. He said notice we said third party and not utility because we are being informed that there are applicants out here who don't necessarily want to generate the electricity for utility, they have a buyer, a local business, or development, or hospital that wishes to purchases the product from them, the electricity. He said contour maps showing intervals will be required and will have to go for drainage review to the Warrick County Drainage Board. He said this will be describing all the locations correctly, name and address of the licensed surveyor, scale shown graphically and

numerically, the points, dates, and boundaries of the tract with all dimensions and bearings including 100-year flood elevations and protected area wetlands. He stated the CSES applicant must submit proposed drainage plans. He stated if lighting were installed at the sites, they have to be shielded and downcast. He said only outdoor storage and materials; vehicles and equipment that directly support the daily operation will be permitted to be kept on the site. He said it's not going to be a storage yard. He said Special Use-29 applicant/operator shall defend, indemnify, and hold Warrick County and its officials harmless from and against all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities including reasonable attorney fees, without limitation, arising out of acts or omissions of the applicant or owner. He said paragraph 18. He said the owner or applicant would maintain general liability insurance covering against bodily injury and property damage naming Warrick County Commissioners as additional insured parties. He stated the policies would be covering limitations of \$2 million dollars per occurrence and \$5 million dollars in aggregate and with not more than a \$5,000 deductible, frankly we don't care about the deductible really because we're not paying it. He stated any loss of coverage must be reported to the Commissioners within ten working days. He said the Warrick County Board of Commissioners, or designee, shall have enforcement authority of the Ordinance and they shall be granted authority to enter upon the premises at any reasonable time with or without the operator or owner to inspect the same. He said failure to permit such inspection or failure to remedy any discovered violation might be considered an automatic cessation of operations, which triggers the demolition. He stated any funds received from an Irrevocable Letter of Credit or cashier's check shall be used by the Warrick County Commissioners only for the purpose of making the necessary improvements or the decommissioning of the site. He said the proceeds, of the Irrevocable Letter of Credit may be used for these purposes without further appropriation. He said if the cost to cure discovered violations or installed necessary improvements, or the cost of decommissioning exceed the amount of Irrevocable Letter of Credit, then it would constitute a lien against the property. He said the responsible party shall have ten calendar days from the date he or she is served with the invoice to pay it. He stated if they don't then it would go to County Auditor to be attached to the property taxes. He said Ordinance shall be supplemented to any state or federal regulations, including but not limited to Indiana and federal regulations. He said and the Ordinance would be in full force effect upon passage by the Board of Commissioners of Warrick County. He said now in addition to that there is...Molly has prepared the modification of Article V and the chart of Special Uses to the zoning district. He said this was provided in...and somehow got to Peter, which is fine, that was the purpose. He stated Peter has provided to us a list of comments. He said Molly and I talked to Peter for about two hours and twenty minutes last week in a conference call, reviewing comments about this. He said we asked Peter, who appears to be the only person interested in the public hearing tonight from the general public, to provide some background information and to give us his most important comments to the draft ordinance. He stated he has provided that for you and you have his copy, much like a redline version. He said with that he would suggest that we call on Peter to address the concerns from his company's point of view about the ordinance and what effect it might have on their decision about locating in Warrick County.

President Valiant said yes, if you mind to just take a few minutes and we'll go through your comments and kind of explain your side of things on these.

Peter Moritzburke said that'd be great and thanks for having him participate remotely. He said he appreciates the opportunity.

President Valiant said you're very welcome. He stated with that said he'll turn it over to you, boss, and let you kind of go through your...we'll go through this and some of your comments and kind of let us know how your side is doing this.

Peter Moritzburke said sure, that sounds great. He said just a brief introduction we are going into renewable energy group. He stated if a developer of renewable energy projects primarily solar and renewable energy storage projects and we are the only company he knows of with this structure because they are independently owned not owned by a utility and they have been developing projects since the late 1990's. He said they have been doing this a long time and they take pride in promoting long term relationships with the communities where they develop. He stated they guard their reputation as a good neighbor very carefully. He said they have a lot of respect for the communities they enter. He stated with that he would go ahead and jump into section D of the ordinance, where I'll make my first comment. He said it is necessary to clarify the setbacks would apply to the perimeter of the project and not to the parcels that are contiguous within that project site. He stated that may be obvious not needed to be pointed out and reviewed. He said the project if you have multiple parcels or property owners and they have gathered in one place for the project because you wouldn't want to have setbacks within the site between parcels. He asked if they would like for him to continue on or stop after each one for a comment or how do you want me to do it.

Attorney Doll said Peter, this is Attorney Doll. He asked would you mind telling the Commission what a typical size in acres of what a commercial solar farm is, from your experience.

Peter Moritzburke said sure. He said their rule of thumb for a solar is about eight acres per megawatt. He stated you could typically get it down to less than that maybe five to six acres per megawatt once all of the construction details have been ironed out. He said when they are setting out to develop a project they try to secure eight acres per megawatt. He stated if we are developing a fifteen-megawatt project they go for 500 acres, 100 megawatt project 800 acres.

Attorney Doll said thank you. He stated he can't speak for Molly, but he doesn't think this strikes him as necessarily an onerous amendment. He said if you in fact have a developer such as Orion that comes in and puts together three or four parcels of property, from three or four different owners, into the solar farm he doesn't think it was the intention of the study group to have setback apply among the three or four parcels. He stated the setback requirement was the perimeter around the outside edge of it. He said unless Molly has a concern, he doesn't know that the study committee, nor does he, have any objection to clarifying that the setback applies only to the perimeter.

Mrs. Barnhill said that's how it was intended.

Peter Moritzburke asked if you could clarify that by saying setbacks from non-participating property owners. He said he's seen it phrased that way, too. He said he'd leave it to your discretion.

President Valiant asked if we were good on that one.

Attorney Doll said yes.

President Valiant said let's carry on to his second comment.

Peter Moritzburke said okay carrying on. He stated if the spatial of one square foot planting equals two square feet of solar panels. He said he hasn't seen this before. He stated it could be common and he just isn't aware of it. He stated it could be overly prescriptive in a way that ends up by not putting in as much landscaping as you would hope. He said if the ground cover ratio is not fully percent, as Attorney Doll pointed out earlier you may end up with less land covered if you apply this ratio strictly. He stated what he has seen in other ordinances is having a landscaping plan and you can certainly require a pollinator friendly native plants is perfectly appropriate, but having it designed by a local landscape architect or a licensed landscape architect in Indiana may suit your intentions better.

Attorney Doll said for the purposes of Area Plan Commission, this was out of another ordinance from a different County and he doesn't recollect which one it was. He said it actually had a ratio... He said the description of the type of grasses, etcetera may have come from the County Extension agent with that suggestion. He said he doesn't have a particular problem with having it professionally designed and submitted as part of the plan to the site review committee. He said he thinks Amanda is fine with that as well.

Amanda Mosiman shook her head yes.

Bob Johnson said he'd be good with it.

Amanda Mosiman said she doesn't think it even has to be professionally designed, just a landscaping plan. She said if they are going to put in a pollinator seed mix, it doesn't take a whole lot to get that seeded, it's not too much of a plan.

Attorney Doll said ok.

Mrs. Barnhill asked do we get the extension approval sign off on that.

Amanda Mosiman said yes, it's still down there.

Mrs. Barnhill said ok.

Amanda Mosiman said a vegetative buffers provided of a variety recommendation provided by us.

Mrs. Barnhill said ok.

Amanda Mosiman said that's still down there. She said what she meant was the square foot of plantings for two square feet, we could nix that, but we still need to be able to look at the plan and adjust it as necessary.

Mrs. Barnhill said ok.

Attorney Doll said Peter, what about E.

Peter Moritzburke said E, he commented on the requirements that the lines to the main power efficiency lines must be underground. He said his comment is that underground may not be feasible and for some reason it might be very expensive. He stated for instance if you are going through rock or if you are going through jurisdictional wetlands it could be restricted. He said to describe what it sometimes looks like, we sometimes execute shared use agreements with a local utility to hang our lines from their existing poles. He said those lines would go to a sub-station, on a transmission pole. He said similar to the ones you have on roads now. He said he didn't know the case but they would maybe be required to put in poles themselves. He said but the requirement that they must be underground seems to be extreme but if we can have the above ground option.

Attorney Doll said I don't know if the Commissioners have an opinion about that or not.

President Valiant asked if anyone had an opinion on it.

Mike Moesner stated he voted to go along with the language they had to the extent that it was practical.

Amanda Mosiman replied yes.

Attorney Doll asked if possible.

Mike Moesner replied if possible yes.

Bob Johnson said that makes sense. He said the BZA is going to be looking at this and making recommendations, so the verbiage is fine if we wanted to change it to what he's got here.

Attorney Doll stated or if we said to the extent that it's practical, that language, which is recommended by Peter, is agreeable to the Board.

Mike Moesner replied yes.

Amanda Mosiman said yes. She said they are still going to have a reason to tell us why or why not.

Attorney Doll said ok. He said Peter, paragraph G.

Peter Moritzburke said ok, moving on. He said paragraph G this comment is on length of the decommissioning period. He said 180 days for a large solar project would be very tight especially if winter weather intervenes. He stated he hasn't seen 180 days, which is about six months, in other words includes... obviously you are pulling this from others that have it so he

doesn't doubt that but preferred would be 360 days. He said he has seen as long as 18 months, which is 540 days.

Attorney Doll said if you have an 800-acre, 100 megawatt solar farm, can you tell the Commission a little bit about what decommissioning consists of for something that large. He said how expensive it is, how long it takes, explain to us a little bit about why you need a full 360 days.

Peter Moritzburke said well you have to pick the season appropriately. He said you can do some work through winter, but it won't be to full scale. He stated we have tried to recycle and use as much equipment as possible not just because it's the right thing to do, but because it's economical. He said the materials there have value and they will be left on site. He said they will be used and recycled. He said so panels get re-used. He stated they will likely be panel recycling facilities more common in the country 20-30 years from now when these parts get decommissioned. He said but there aren't that many in the country now, that's just a fact. He stated but they remove panels, they remove the piers, and all other equipment to three feet below ground surface, all of that metal and cabling gets recycled, the site gets restored to its original condition with the landscaping, which if desired to remain in place by the landowner, same with the roads and the fences. He stated they will work with the landowners to retain those. He said the cost of decommissioning can be high, it can be in the multiple millions of dollars, depending on the size of the project. He stated so putting up a bond or an irrevocable Letter of Credit, definitely carries a cost.

Attorney Doll asked Peter, what would be the life expectancy of a commercial solar farm.

Peter Moritzburke said a minimum of thirty years. He stated it depends on how aggressive the analysts are getting with their financial models, but thirty years is a safe assumption. He said thirty-five is not uncommon. He said that's just the life of the panel itself. He said most panels can be replaced and the project repowered at the end of a panel life if the uses allow that.

Mike Moesner asked say fifteen years down the road, we're finding that panels are going to be twice as efficient as what these are now, what happens.

President Valiant asked Peter if he heard that.

Peter Moritzburke said he believes so. He said he'll repeat it back. He said what happens fifteen years down the line if there are new panels that are twice as efficient as the ones that have been installed. He said there will be an analysis done to figure out what the economics are of switching out the old panels for the new ones. He stated once you have bought panels and installed them and all of the equipment, it is also installed just for those panels to invert from DC to AC and step up transmission voltage. He said all of that is very specific to the panels. He stated there are some changes that could be made but technically it gets pretty difficult once you have put those panels in place. He stated frankly it is not very economic. He said it would be like changing out your engine in your truck before you need to just because there is a more powerful one out there that runs better.

Attorney Doll asked so are there any questions about the length of time to decommission, specifically in paragraph G. He said the ordinance as drafted has 180 days. He stated Peter is recommending a minimum of 360 days, based upon industry experience.

Bob Johnson said he could see where 180 days would be kind of tight on something as large as an 800-acre farm. He said he wouldn't want it to be any more than 360 days. He stated or give it a year, or 360 days, and maybe they can come for an extension, something like that.

Bill Byers replied whatever is reasonable.

Attorney Doll said one year, 365-days, with the Commissioners capable of approving reasonable requests for extension of time if necessary. He said ok, Peter, you're next question is the construction time, sub paragraph I-1, page 4. He said is two years too short.

Peter Moritzburke stated two years is going to require that the project come back for an extension, almost a guarantee. He said these projects have long development cycles, so getting a permit gives us some level of assurance that the community is going to welcome us, or that the project is permissible at that level. He stated but from that point we still need to go through the transmission study process, we need to go through the utility procurement process, and others that take time. He said the two years will require an extension to be applied for. He said if we could start out with three that may be enough and four would be ideal.

Attorney Doll said he thinks with other Special Uses in Warrick County, we generally have a construction occur within a period of time and he said the longest period of time is two years. He said didn't we extend that for Prime Foods.

Mrs. Barnhill said well it is one year and they can ask for more time.

Attorney Doll replied yes, the longest he's ever recollected that we approved was Prime Foods.

Mrs. Barnhill said yes.

Attorney Doll stated he thinks that was a two year period of time. He asked does the Board, the Commission, have any recommendation about the time period for construction to commence.

Amanda Mosiman said she doesn't want to hold it out there forever. She said she wants some sort of manner of time, because if these are large projects in large acreage and they just are dragging, she wants them to come back so she can figure out what's going on. She said three years seems like a long time.

Jeff Willis asked could we have the two years to default and if they want to ask for more they can ask for more for their plan like Prime Foods did.

Attorney Doll stated you can create this any way you wish. He said you're going to recommend this ordinance to the Commissioners and then ultimately the Commissioners can change it as they see fit, too.

Bob Johnson said he'd like to see it where it stays at the two years, however when they present their plan to the BZA, the Commissioners, or whoever it may be, that at that point they can ask for more time than the two years.

President Valiant asked before they even get started.

Bob Johnson said it depends on the size of the farm.

Amanda Mosiman said the size of the farm, yes. She said it really does.

President Valiant said that's a very good point.

Mike Moesner said he doesn't have a problem with two years, and if they are really sincere about doing it, they are going to get things lined up. He said they may not have it all 100%, so then we could extend that time period. He said but I think we need to have two years to make sure they get on the ball and get things going.

Bob Johnson said to start construction.

Mrs. Barnhill said they are going to have a lot of money already invested at this point. She said from the way Peter has explained it, all the engineering that's goes on.

Attorney Doll asked in fact, Peter, can you share with the Commission if you have a 100 megawatt solar farm, approximately 800 acres, what's a ball park cost of construction of such a facility.

Peter Moritzburke said a good rule of thumb these days is about a million dollars per megawatt, so a 100 megawatt project would take about 100 million dollars. He said that's coming down over time, so within a few years it's probably going to be closer to 90 million dollars.

Attorney Doll asked and these are profitable with that kind of investment.

Peter Moritzburke said they are yes. He said well they can be if the response... we have a comment about the power of supply requirement in a little bit. He stated if they do not get built if they are not going to be profitable. He said that's a guarantee, with those conditions it just is not happening.

Attorney Doll said Peter, paragraph 4 on page 4, this is an important point. He said the significant components, the description. He said he thinks it's important for the Board, the Commission, to understand that there's really three configurations for these kinds of projects. He said one is just purely a solar farm, the other is a solar farm coupled with battery storage so energy developed or generated at that location is stored in batteries. He stated if it's not uploaded immediately, and then it's uploaded as demand requires it. He said and the third component, the third configuration, is a battery storage facility without a solar farm. He asked is that an accurate summarization of the three configurations.

Peter Moritzburke said yes it is. He said in some cases if its primarily energy storage, it may have some solar panels there, but the primary function of the facility would be to store electricity

that's generated elsewhere and delivered to the site from the grid until a time when the utility needs it later for good support or energy sales.

Attorney Doll asked in the battery storage facility only you would be downloading power off the grid, not from the solar system perhaps, perhaps and then uploaded power back to the grid when demand necessitated that.

Peter Moritzburke said correct.

Attorney Doll said and to give the Board what we've talked about in our prior conversations with Molly, and me, you indicated that the battery storage facilities consist of lithium ion batteries that are housed in a structure, some of them could be a building. He said or the batteries could be housed in something akin to like shipping containers. He said and then a battery storage facility only perhaps could consist of ten to fifty shipping containers. He stated we're talking about cargo containers for like on cargo ships, which would house the batteries. He said you could have a battery storage facility that's as small as ten acres perhaps, or you could have one in conjunction with a 100 megawatt facility that's storing power from the solar panels or from the distribution power lines.

Peter Moritzburke said correct.

Attorney Doll stated you had asked if it's possible to expand this ordinance to cover all three derivatives of that function. He said to share with the Commission, my response was, I felt that the solar farm, or perhaps the solar farm with battery storage to support that solar farm, would be appropriate as a Special Use 29, but strictly just a battery farm, where no generation was occurring, just power coming off the grid and going back on the grid when needed, is a different kettle of fish, a different function. He stated he favors considering a separate special use for that, but his question to you and Molly when we were on the phone together, was safety. He asked can you talk to the Commission please about lithium ion battery safety because that would be a concern of the Board of Zoning Appeals, I'm sure, will hear citizen comments about.

Peter Moritzburke replied sure and to respond to the safety question, there are lithium ion batteries in many of the things we have in our pockets, house, office, and elsewhere. He said they are in every cell phone, laptop computer, and many other devices that we use regularly. He stated so yes, there have been question about thermal runaway it's called, but that is more like the Samsung phones that were having that problem awhile back. He said there are incidents with thermal runaway at large scale solar facilities, too and you can find them on the web, but these projects are designed to be safe, they must meet all safety codes, including those from the National Fire Protection Association, American National Standards Institute, Underwriters Laboratory, and others. He stated there are (unintelligible) utility codes that will be required to install safety systems, including sprinklers and fire suppression systems specific to batteries with their installation.

Attorney Doll asked can you talk about the economics of approving a solar farm perhaps a 100 megawatt if it did not permit the battery storage capacity as part of its approval. He asked would

it still be an economically viable investment if you couldn't have battery storage with a solar farm.

Peter Moritzburke replied today, yes. He stated in fact it is more common to have a solar only project, than solar plus storage, however the cost of batteries is coming down at a pretty steep rate. He said we expect that within a few years, maybe five, most projects will have an energy storage component. He stated the technology is also evolving. He said right now lithium ion batteries are the most economic, but we see other technologies starting to catch up. He stated it is a pretty interesting field. He said so yes, today solar only projects can survive, but more and more utilities are wanting solar plus storage.

Attorney Doll asked would it make Warrick County a more attractive investment environment for solar energy companies if our ordinance permitted storage capacity associated with a solar farm. He stated it may not matter today, but these are long-term investments. He said these are thirty-year commitments and maybe a hundred million dollars. He said if a company is looking at doing that, wouldn't they want the most flexibility with their ability to use site.

Peter Moritzburke said yes they would. He said and who's going to say that projects getting built today, and most of them are solar only, again long development site (unintelligible) these projects and within a few years he would expect that to even out and maybe be 50/50. He said he doesn't have that number at hand he was grabbing it out of the air. He said yes very soon the project developers are going to want a storage component to their solar projects. He said today is the time to make that feasible.

Attorney Doll said my only suggestion to the Commission is if you intend to permit storage facilities to be associated with a solar farm we want to define that. He said we want to describe it. He stated we don't want to leave it as a significant component, we want to define what it is so it's clear to everybody what we expect and what the industry can or cannot do in Warrick County.

Bob Johnson said he thinks it should be as aesthetically pleasing. He said out where he lives he's surrounded by 400-acres of farmland on one side. He said if they decided to put in a solar farm, I wouldn't want to be looking at 10-acres of shipping containers sitting outside my house.

Attorney Doll said well we have the buffer in here. He said we have the vegetative advantagement requirement in here.

Bob Johnson said yes, I understand the buffering. He said he's looking at but he can see for miles at his house. He stated coming off his deck he wouldn't want to be looking at, you know. He said first of all he wouldn't want to be looking at a solar farm, however just the thought of having to use something that is as un-aesthetically pleasing as a shipping container, that kind of bothers me.

President Valiant asked ok, so are we discussing what they are going to look like, or are we discussing whether we are going to have that a part of this.

Attorney Doll said it's really the same question, he thinks, Mr. President.

Mike Moesner said I have a question. He asked for the battery storage, he think it should be farther away from the property line, wherever they are going to put them because twenty-five foot setbacks or whatever it is, is not adequate if you have potential because lithium ion batteries have blown up. He stated what you are talking about is a huge lithium ion battery bank and he thinks it should be farther into the property regardless.

Amanda Mosiman said she thinks for the sake, her opinion is, they are two separate things for us right now, that they might be combined and looked at, but we've been kind of fooling around with the solar ordinance for a couple of years. She said battery storage is a complete new topic, one that she thinks we would need to flush out more just adding it to the ordinance.

Bob Johnson said he agrees. He said it's going to take some thought.

Bill Byers said because that would take care of yours.

Attorney Doll said ok, Peter, can we go to paragraph 12 on page 5.

Peter Moritzburke replied yes.

Attorney Doll said we had a requirement that the operator needs to have an approved power supply contract. He stated you don't like that language. He asked can you tell us why.

Peter Moritzburke replied sure, for a couple of reasons. He said one that...ultimately there is going to be an opportunity for projects to get built and to supply the grid without a contract. He said that's called a merchants facility. He said already we are seeing plenty of wind projects in Texas getting built and supplying the grid or spot market opportunity. He stated solar is going to go that direction someday. He said he sees this as ultimately prescriptive on that front. He said there is another one that may resonate a little more clearly and it's a facility owned by the consumer of the power. He said let's say Warrick County attracts a server farm and Google comes in and build a facility that requires fifty megawatt solar project. He said they would not have a power supply agreement, it would own the facility outright, and so that's a situation where this would not apply.

Attorney Doll asked so you're proposing that instead of requiring an approval of a power supply contract, you're suggesting that we should require only a plan for a power supply contract.

Peter Moritzburke replied yes, that would be his proposal. He said another option would be a utility owning facility. He said in some cases developers end up selling their projects to a utility and the utility needs to conform to all of the rules and regulations that the project is committed to. He said but there is another situation where there wouldn't be a power supply contract with a third party.

Attorney Doll said well the Commission needs to know, too, that there is a court case in Indiana where the courts have determined that privately owned solar developments, such as this, are not subject to the Indiana Utility Regulatory Commission jurisdiction. He said they are not a utility. He said they are a generator, but they are not a utility. He said now if it was owned by Vectren or Centerpointe now, if they came to Warrick County and built a hundred megawatt solar farm that would be subject to the Indiana Utility Regulatory Commission because of its ownership. He

said there is no State regulation concerning need or cost pass through or any of those things that this type of project would be subject to. He stated you're objecting to the topographic map requirement on two-foot intervals.

Peter Moritzburke replied correct. He stated he was not aware of the date of availability in Indiana or whether or not... that is probably available if it isn't then you would have to fly a drone or a plane over to collect the light R data... he apologized that he doesn't know what the acronym stands for. He said you may have to fly the site to collect that data. He said ten feet is the most common that he has seen.

Attorney Doll asked Molly, what are we using now in Warrick County for projects.

Mrs. Barnhill said on a subdivision, intervals not more than five feet where the slopes greater than ten percent. She said and not more than two feet where the slope is less than ten percent. She said that's on a subdivision.

Amanda Mosiman said all the topographical maps we had tonight, they were all within a couple of feet. She said she was looking at the drainage plan for that one retention basin because it just seemed to be in a different corner. She said so obviously that is available somewhere.

Mrs. Barnhill said well they are going out and surveying it.

Amanda Mosiman said they are surveying it themselves. She said ok.

Mrs. Barnhill said these are a lot smaller than an 800-acre farm.

Amanda Mosiman said to be surveyed to that detail.

Mrs. Barnhill said and that's the Drainage Board that would be...

Attorney Doll asked does the Commission have a recommendation. He stated two percent, two-foot intervals are included in the draft. He said we used two different measurements in subdivisions now. He said greater than ten percent slope is five foot intervals. He said less than ten percent slope is two-foot intervals.

Mrs. Barnhill said yes.

Attorney Doll said do you want to replicate the County subdivision standards in this ordinance or do you want to leave it, or do you want to change this to a different standard.

Mike Moesner said if you change it to even five feet you still have to redo things, wouldn't you. He said you still have to fly over to get the measurements. He said if its two feet now.

Attorney Doll said five feet is no better.

Mike Moesner said right. He said he didn't think that five feet is going to help you there.

Bob Johnson said I don't see a big issue on having a ten, I truly don't.

Bill Byers said he could be wrong. He said he is just trying to think of all of the pros and cons, but he just doesn't see it.

Mrs. Barnhill said so if you're thinking about looking at a big plat of it, it could be really hard to see.

Attorney Doll said two-foot intervals would be too minute.

Bob Johnson stated yes, too much resolution.

Attorney Doll asked is ten- foot agreeable to the Commission to recommend to the County Commissioners.

Mike Moesner replied yes, he would agree to ten.

Attorney Doll said ok. He said Peter, paragraph 14.

Peter Moritzburke said paragraph 14, regarding the plans be submitted to the Warrick County Drainage Board and approval of that plan. He said this is something that typically takes place, in his experience, closer to construction when the final designs are being made. He stated at the time of the Special Use application they would have a conceptual or indicative site plan that would meet all of the requirements, show where all of the landscaping is going, show the setbacks, and have a conceptual view of what the panels look like, but we would not have the drainage plans done at that time.

Attorney Doll said well generally Warrick County before we get final approval for a project, we require drainage to be approved. He said drainage and road access to be approved at the related Boards. He said this would be an oddity. He stated you could have conceptual, if he understands what Peter is asking for, but then before final plan approval you would have final drainage plans approved. He asked the question is what the Commission wants to recommend.

Amanda Mosiman said drainage is and will continue to be a major issue for this County.

Mike Moesner said right, we always require that before we've approved it.

Amanda Mosiman said and it's not going to get any better.

Attorney Doll said we're adjacent to the Ohio River. He stated we have lots of drainage issues, lots of times, and in fact it's a blessing and a curse. He said but that's the practice we've always done. He said the question gets to be whether or not you could submit preliminary drainage that could get approved so that the BZA could act on the application and then if you come back and ask for a modification on the drainage plans at a later date, that happened in Warrick County. He stated if the project gets changed a little bit you have to come back if you have to change detention or what have you. He asked so can you live with that.

Peter Moritzburke said he's sorry, is that question to me.

Attorney Doll said yes, Peter.

Peter Moritzburke said he doesn't have the advantage of site in this situation. He said yes, that is acceptable. He said he is just proposing that the plan that we present as part of the initial Special Use printed application, is not going to be the final one. He said it may apply to the conceptual design, but the final design of the final panel collected, having gone through all the

environmental review, that layout is going to be different from the layout that gets proved for the stuff to get the permit.

Attorney Doll asked when that final drainage layout will be known to Orion, for example.

Peter Moritzburke said typically when they get closer to construction so through the environmental review process it is determined if there is jurisdictional wetlands and they are based on the slope of the facility and how it all comes together in two or three inch plan. He stated they would expect that the storm water, erosion protection plan, erosion control plan, and these permits are typically obtained closer to the building permit phase. He said as he understands, it may be more appropriate to put the ILP application approval phase.

Attorney Doll asked is the Board comfortable with that. He asked is the Commission comfortable with that.

Bill Byers asked if it isn't broke, why fix it.

Attorney Doll said right now the process is as it says in the Ordinance, the draft. He stated you go to the Drainage Board, then you come to BZA or APC.

Jeff Willis stated ten percent of the time we send them back to the Drainage Board and make it contingent upon approval, or contingent upon the Drainage Board.

Attorney Doll said well, like tonight.

President Valiant said yes.

Attorney Doll said I mean we don't have a road for a medical office building, yet we had to deal with that tonight. He said we had an entrance that was a problem at the Commissioners meeting. He said he thinks there needs to be some preliminary, at least the approval of the drainage plan before it comes to the BZA. He said so we're not just, you know, castles in the sky sort of thing. He said we're talking about real world.

Bob Johnson stated he agreed with that.

Attorney Doll said and if you need to come back, Peter, and make a change before you get the ILP, that happens and people come back with a modification of a drainage plan. He stated we've had some today that had to come back because they added two more lots, I think to a subdivision. He said and then before the ILP could be granted, there would have to be a final approved drainage plan. He asked if the Commission was acceptable with that change.

The answer was unanimous.

Attorney Doll said alright. He said automatic cessation, paragraph 19.

Peter Moritzburke said in a nutshell...

Attorney Doll asked how much time you would want to cure. He said you're suggesting a time to cure. He said that's probably due process, reasonable to ask for. He asked how much time to cure are you saying.

Amanda Mosiman agreed.

Attorney Doll said how much time to cure would you say.

Peter Moritzburke said he wouldn't ask for more than 60-days that would be ideal.

Attorney Doll asked is that agreeable to the Commission, that before Warrick County Board of Commissioners consider an automatic cessation of the operation, that there would be a notice and 60-day period of time for the applicant to cure the defect. He asked if that is agreeable.

Bill Byers asked we have a one-year cessation in paragraph G, right. He said before it's considered abandoned. He said and then they got a year to tear it down.

Attorney Doll said yes.

Bill Byers said so we have two year from the day they stop operating to until they have to have it torn down.

Attorney Doll stated we wouldn't trigger the decommissioning until after it had not operated for a year. He said then they would have a changed language Peter is asking for in paragraph G, a year to tear it down.

Bill Byers said that's two years total.

Attorney Doll said yes, but I doubt you're going to see any demolition going on in the first year. He said hope springs is eternal, that there will be need for it.

Bill Byers said it gives you a chance to hide.

Attorney Doll said yes.

Bill Byers said now you have two years to hide.

Attorney Doll said well it would be two years and 60 days.

Rick Reid said 30 days, yeah.

Attorney Doll said so Commissioner...Peter what about 30 days. He said advanced notice and opportunity to cure.

Peter Moritzburke said they could live with it but it would be a scramble 45 days would be better but 30 days is necessary.

Attorney Doll said do I hear 45...do I hear 45...45...45.

Jeff Willis said some of these things that would trigger these automatic cessation though aren't just because it is been decommissioned like the bond is not kept up.

Attorney Doll said no.

Jeff Willis said the insurances wasn't paid.

Attorney Doll said that's right.

Jeff Willis stated so there's some things that might take some time to cure.

Attorney Doll said so are you ok with 45 days.

Peter Moritzburke said he is.

Bill Byers stated he was comfortable with 30 days.

Attorney Doll said some are comfortable with 30 and some are comfortable with 45.

Bob Johnson stated you could ask for an extension if you're having issues with something, you know, at least respond within 30 days.

Attorney Doll said alright, so you want to leave it at 30, but with a possibility with extension.

Bill Byers said he does.

Attorney Doll replied yes, he does.

Amanda Mosiman said I don't want to see...

Attorney Doll said alright, Peter is there any other change that you haven't talked about that you're asking for.

Peter Moritzburke said there is a short list he was going to put in air quotes.

Attorney Doll said yeah, we've seen the long list.

Peter Moritzburke replied yes.

Attorney Doll asked is the Commission comfortable with the changes that Peter has suggested with the exception that there was something we didn't agree with.

Jeff Willis said 30 or 45 days.

Attorney Doll said no, something else, Jeff.

Amanda said two years.

Bob Johnson said the he thought it was the storage.

Amanda Mosiman said the storage.

Attorney Doll said yes, the storage. He said this would be a Special Use, solar farm only, Peter. He said we're not saying Warrick County isn't going to adopt the storage variance. He said that's not my choice, it is not my prerogative, he doesn't make policy, he is a technician. He asked is it the will of the Commission that Molly and I fold these changes that you've approved tonight into the ordinance and transmit it to the Commissioners as the work product of tonight's public hearing.

Amanda Mosiman said so moved.

Rick Reid said second.

Attorney Doll said moved and seconded.

President Valiant said all in favor and the motion was carried unanimously.

Attorney Doll said alright Peter, so you've got a pretty good understanding of what is going to the Commissioners and you'll have an opportunity to talk to them about any other questions you have.

Peter Moritzburke said great. He said thank you very much for the opportunity, he really appreciates it.

Attorney Doll said there is a question for you Peter.

Amanda Mosiman said so looking forward at the battery...job stability here...would wind ordinances also have this battery storage component to them now, too.

Peter Moritzburke replied yes.

Amanda Mosiman said ok.

Peter Moritzburke said now it's definitely emerging and obviously counties are having to deal with this and its increasing frequency. He stated to be honest, maybe it's not addressed well even when it is addressed. He said he has seen it to where it is almost referenced in passing where energy storage is just mentioned without any other requirements. He stated he agrees that some parameters need to be put around it. He said it is happening with wind ordinances and solar ordinances. He stated he thinks it is actually getting better. He stated what he could do if it is in the interest of the Board members he could find some storage ordinances that have been adopted and provide those as examples.

Attorney Doll said yes please. He asked is there any other debate about this proposed Ordinance.

Mrs. Barnhill said the Ordinance is fine, she would like to talk about the fee for the permit afterwards.

Attorney Doll asked if we could have a two minute recess.

Bob Johnson said Peter thank you for your time and your knowledge. He stated he had learned a lot about this because he had a lot of questions about this and he appreciates it very much.

Peter Moritzburke said happy to have been a good source. He said you have my number and he is available to call or email.

Amanda Mosiman said the battery storage topic hasn't come up at our land use on it, which is joint with APA and the resource council. She stated wind and solar is all they have talked about in Indiana and all around.

Bob Johnson stated he has always thought about it but he just didn't realize the magnitude of it.

President Valiant stated Peter we are waiting for one more person to return to the room. He said he thinks Molly has one last question for him.

Peter Moritzburke replied okay.

Attorney Doll said Peter, employment. He asked a 100-megawatt solar farm would employ how many people.

Peter Moritzburke said for a 100-megawatt facility, typically you'll have two, up to three, people during the operation phase. He stated during the construction phase is where the job number is significant. He stated you'll have about a couple hundred people on site, on an average of six months or more, during the construction phase.

Attorney Doll said ok.

Peter Moritzburke said operations is a fairly low number.

Attorney Doll said ok, thank you.

Peter Moritzburke stated two is a good rule of thumb.

Mrs. Barnhill said ok, Peter, I want to ask you about what kind of fees that you normally see from the County for the permit, after the Special Use is approved, and for the location permit. She asked how they would typically charge that, do you see a standard.

Peter Moritzburke said now he doesn't think there is really a standard, he has seen fees of \$100, and he has seen them at \$500. He said but I would offer this the fees typically associated with permitting phase of the project are not very significant. He stated in terms of the overall project economics. He said he doesn't have a number for her.

Mrs. Barnhill said so they've been flat fees. She asked they don't go by square-foot of panel area. She asked have you seen that.

Peter Moritzburke said that's a good question. He stated he has not seen it assessed by size, just per project.

Mrs. Barnhill said how many square feet of panel area do you think would be in 800 acres.

Peter Moritzburke said he is not very good at math. He said it would be 800 times 34,000...feet per square foot by acre. He said he doesn't have the number off the top of his head.

Mrs. Barnhill said it's 43,560. She said it's 43,560 per acre. She asked so about 40% of that is paneled, right.

Peter Moritzburke replied correct.

Mrs. Barnhill stated so we are at 17,424. She said so just times the 800.

Attorney Doll said square feet. He said 17,424 times 800.

Mrs. Barnhill said ok, so we're at 13,939,200.

Jeff Willis stated so 14-million square feet.

Attorney Doll said 14-million square feet of solar panels.

Mrs. Barnhill said so we need to think about how we want to charge these, charge the permit, because we were initially talking four cents per square foot of panel area, but that's over half a million dollars.

Attorney Doll said and that was based upon the rate paid for commercial buildings.

Mrs. Barnhill said yes.

Peter Moritzburke said that will move the needle. He stated to be honest that would be a deterrent. He said he could see developer seeking other Counties to help them. He said he would go for a flat fee. He said he thinks that would cover your cost.

Attorney Doll said well that would be set out in the rules of BZA what that Special Use fee will be, so it's still to be decided by the County as we go forward. He said it doesn't have to be in the Ordinance.

Mrs. Barnhill said yes, I just wanted to be on the radar and to think about how we need to do this.

Attorney Doll said it's really up to Warrick County I guess, and you don't want it to be a deterrent to the industry, but on the other hand he doesn't know...a flat fee for a 30-acre solar farm is far different than a flat fee of an 800-acre solar farm, it seems to me. He said of course the property tax that the County will collect on lease hold improvements going forward over the next thirty years is whatever it is. He stated that is where a significant amount of money will be. He said any other questions for Peter.

Mrs. Barnhill said no, thank you Peter.

Peter Moritzburke said thank you very much for your time and Attorney Doll and Molly thank you very much. He said he appreciates the opportunity. He said please don't hesitate to call or reach out if he could provide any other information.

President Valiant said thank you for your time and patience for waiting on us this evening.

Bob Johnson said thank you.

President Valiant asked anything else.

ATTORNEY BUSINESS: None

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill said she would like to ask for an additional appropriation for ACP Training that we've done that. She said we thought it was going to be paid for, but it didn't get paid for so I paid for it. She stated we spoke...or the office paid for it. She said we've been talking to Greg Richmond and Terry Phillippe and we ended up having another account set up for training, so she has money in the budget and she has put in this training line item and that's how it was paid for. She stated it was always her understanding she was always covered under our budget, but now we've paid \$800 so there is \$600 she'd like to ask for an additional appropriation for so that it could be put back into the Area Plan Commission funds.

President Valiant said does anyone want to make a motion.

Bill Byers asked how much.

Mrs. Barnhill said \$600.

Bob Johnson said write her a check Bill.

Bill Byers said he would make a motion.

Bob Johnson seconded the motion and the motion carried with one abstention from Amanda Mosiman.

Amanda Mosiman stated it was her program so she couldn't vote.

Bob Johnson stated it shouldn't be this difficult.

Amanda Mosiman stated by the way, you guys have until the 12th to get through your curriculum and take your tests.

Mrs. Barnhill said that's all I have.

Rick Reid made a motion to adjourn. Amanda seconded the motion and the motion carried unanimously.

Attorney Doll said the motion to adjourn was made over here.

ATTEST:

Molly Barnhill, Executive Director

Jeff Valiant, President